

EXHIBIT B

FEDERAL PUBLIC DEFENDER
District of Hawaii

Shanlyn A. S. Park
Assistant Federal Defender

300 Ala Moana Boulevard, Suite 7-104
Honolulu, Hawaii 96850-5269

(808) 541-2521 ♦ Facsimile (808) 541-3545 ♦ Toll free (877) 541-2521

January 11, 2007

VIA E-MAIL AND U.S. MAIL

Federal Bureau of Prisons E-mail: BOP-CPD/DSC@bop.gov
Designation and Sentence Computation Center
Grand Prairie Office Complex
U.S. Armed Forces Reserve Complex
346 Marine Forces Drive
Grand Prairie, TX 75051

Federal Bureau of Prisons E-mail:WXRO/EXECASSISTANT@BOP.GOV
Western Regional Office
7950 Dublin Blvd. 3rd Floor
Dublin, CA 94568

Natalie Wight E-mail: nwight@bop.gov
Senior Attorney
U.S. Department of Justice
Federal Bureau of Prisons
Federal Detention Center
351 Elliott Street
Honolulu, HI 96820

Re: Rudy Souza, Register No. 90010-022

Dear Sirs and Madam:

It has come to my attention that my client, Rudy Souza, has been classified by the Bureau of Prisons as an inmate who will be evaluated by the BOP to determine if the government should move to civilly commit him pursuant to the Adams-Walsh Act. Prior to submitting Mr. Souza's case for civil commitment it is my understanding that the BOP wants to have Mr. Souza evaluated by doctors at FCC Butner.

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It is my understanding that prior to determining that Mr. Souza should be evaluated, the BOP reviewed his file which contained the Presentence Report for his federal case. According to the PSR, Mr. Souza, in 1994, approximately 13 years ago, was convicted for unlawful imprisonment in the second degree. The PSR relied upon police records to detail the facts of Mr. Souza's conviction. The PSR, however, misrepresents the outcome of Mr. Souza's case. While it is true that Mr. Souza was charged with 7 counts of sexual assault in the first degree, kidnaping, sexual assault in the third degree, after a jury trial, he was subsequently acquitted of the sexual allegations. He was only convicted for unlawful imprisonment in the second degree, which is a misdemeanor offense. I have attached a copy of the docket sheet as well as the verdict and judgment for Mr. Souza's state criminal case for your review. All other allegations of sexual abuse against Mr. Souza were dismissed and were subsequently expunged from his criminal record on September 12, 2001. (See PSR at page 7.)

The facts of the PSR indicate that the allegations of sexual abuse deal with Mr. Souza having sex with a prostitute. It is clear from the jury's finding that the alleged victim was not credible given that Mr. Souza was acquitted of all sexual abuse allegations. It is our view that this old criminal proceeding is an unreasonable basis for commencing civil commitment proceedings or even modifying the conditions of supervised release.

As I am sure that you aware that Mr. Souza's underlying federal conviction was for possessing an unregistered destructive device. Specifically, Mr. Souza possessed a home made pipe bomb. For this crime, Mr. Souza was sentenced to 33 months imprisonment. Currently, Mr. Souza is in custody for Supervised Release violations that have to do with drug usage. Mr. Souza was sentenced to 4 months imprisonment for his failure to attend substance abuse treatment and testing and for testing positive for drugs on several occasions. Mr. Souza was also placed on supervision for another 32 months. It should be noted that Judge Gillmor, who originally sentenced Mr. Souza for his federal conviction, was aware of his criminal history when she ordered that he be placed on continued supervision.

As I am sure that you are aware, Mr. Souza's current release date is February 11, 2007. He has not been able to travel given he seriously injured his back

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while incarcerated at FDC Honolulu and thus he remains housed at FDC Honolulu. Given that Mr. Souza was acquitted, 13 years ago, of the sexual abuse charges, has no current allegations of sexual deviant behavior, his current incarceration is for drug usage, he only has 4 weeks left on his sentence, and will be under the supervision of the Probation Office upon his release, I would respectfully request that you reconsider your decision to have Mr. Souza transported to FCC Butner for an evaluation. Additionally, you should be aware, that I have informed my client to not answer the evaluators questions because his answers could be used against him in this criminal proceeding and/or in any civil commitment proceeding that might be contemplated.

Sincerely,



SHANLYN A. S. PARK
Assistant Federal Defender
District of Hawaii

SASP/hh

Enclosures

cc: Rudy Souza w/encls.
SAUSA Elizabeth Josephson w/encls.
Deputy Marshal Michael A. Ferstl w/encls.